

ORDINANCE NO. 20111215-055

AN ORDINANCE AMENDING CITY CODE CHAPTER 9-2 RELATING TO LIVE MUSIC PERMITS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 9-2-1 (*Definitions*) is amended to read:

- (10) SPRING FESTIVAL SEASON means Friday of the second week in March [~~Wednesday~~] through Sunday during the third week of March, unless the city manager designates an alternate ten-day [~~five-day~~] period for a particular year.

PART 2. Subsection (A) of City Code Section 9-2-3 (*General Restrictions*) is amended to delete Paragraph (A)(1) and to renumber the remaining paragraphs accordingly.

(A) A person may not:

- [~~(1)~~] ~~make noise or use sound equipment in public between 10:30 p.m. and 7:00 a.m.;~~
- (1)[~~(2)~~] use or permit the use of sound equipment at a business in excess of the decibel limits prescribed by this chapter;
- (2)[~~(3)~~] make noise or play a musical instrument audible to an adjacent business or residence between 10:30 p.m. and 7:00 a.m.;
- (3)[~~(4)~~] operate a machine that separates, gathers, grades, loads, or unloads sand, rock, or gravel within 600 feet of a residence, church, hospital, hotel, or motel between 7:00 p.m. and 6:00 a.m., except for the installation of concrete as authorized under Section 9-2-15 (*Permit for Concrete Installation During Non-Peak Hour Periods*);
- (4)[~~(5)~~] use or authorize or allow the use of a vehicle, equipment, attachment, or device associated with a vehicle, for cold hold, refrigeration, or freezing of any consumable food or beverage product, including water in any form such as consumer ice or ice used to refrigerate food or beverage, between 7 p.m. and 6 a.m. if noise or sound originating from the vehicle or any associated equipment (such as an engine or generator, equipment, attachment, trailer or device) is audible or causes vibration at a residence;

(5)[(6)] operate sound equipment in a vehicle audible or causing a vibration 30 feet from the equipment; or

(6)[(7)] operate sound equipment in a watercraft audible or causing a vibration 100 feet from the equipment.

PART 3. City Code Section 9-2-31 (*Additional Application Requirements*) is amended to add a new Subsection (B) to read as follows and to redesignate the remaining subsections accordingly:

(B) An application for a permit under Section 9-2-38 (*Multi-Day Special Event Permit*) may be submitted no later than 30 days prior to the start of a proposed multi-day event.

PART 4. Subsection (A) of City Code Section 9-2-31 (*Additional Application Requirements*) is amended to read:

(A) In addition to the requirements in Section 9-2-12 (*Application Requirements*), an application for a permit requiring a temporary event impact plan must address:

(1) each of the elements required by Section 9-2-52 (*Temporary Event Impact Plan*), including conditions or restrictions proposed by the applicant beyond those required under this chapter[-];

(2) the size of the venue and anticipated attendance; and

(3) whether the sale or consumption of alcohol will be allowed at the event.

PART 5. City Code Section 9-2-36 (*Types of Outdoor Music Permits*) is amended to read:

§ 9-2-36 TYPES OF OUTDOOR MUSIC PERMITS.

<i>Permit Type</i>	<i>Duration, Hours, and Decibel Levels</i>	<i>Sound Impact Plan</i>	<i>Notice & Appeal</i>
Section 9-2-37: 24-Hour Live Music	1-day permit, with hours of operation and decibel levels per Sec. 9-2-30.	Required per Sec. 9-2-52.	—
Section 9-2-38: Multi-Day Special Event	4-day permit, with hours of operation and decibel levels per Sec. 9-2-30 unless modified by sound impact plan.	Required per Sec. 9-2-52.	Notice per Sec. 9-2-54. Appeals per Sec. 9-2-56.

Section 9-2-39 [9-2-41]: Outdoor Music Venue	1-year permit, with hours of operation per Sec. 9-2-30 unless modified by sound impact plan.	Required per Sec. 9-2-52.	Notice per Sec. 9-2-54. Appeals per Sec. 9-2-56.
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PART 6. Section 9-2-37 (*24-Hour Live Music Permit*) is amended to add a new subsection to read:

- (C) An application for a 1 day permit under this section must be submitted at least 21 days prior to the date of the proposed event.

PART 7. Subsections (C), (D), and (I) of City Code Section 9-2-38 (*Multi-Day Special Events Permit*) are amended to read as follows:

- (C) No more than one permit may be issued under this section for the same site or property during the Spring Festival Season [~~within a 45 day period~~].
- (D) The use of sound equipment at the same site or property may not be authorized under this section for more than 16 days per calendar year. No more than four days may be consecutive for each permit. [~~No more than four permits per year may be issued under this section for the same site or property.~~]
- (I) For an event involving the sale or consumption of alcoholic beverages, the director may not issue a permit for the use of sound equipment under this section unless an applicant provides a certificate of liability insurance in the amount and type of coverage determined by the accountable official [~~A decision by the accountable official to approve or deny a permit under this section may be appealed under Section 9-2-56 (Administrative Appeal).~~].

PART 8. City Code Chapter 9-2, Division 1, Subpart D (*Review, Notification, and Appeal*) is redesignated Subpart C (*Review, Notification, and Appeal*).

PART 9. City Code Section 9-2-52 (*Temporary Event Impact Plan*) is amended to amend Subsections (B) and (C) to read:

- (B) A temporary event impact plan must be based on the findings and recommendations under Section 9-2-50 (*Music Office Review*) and Section 9-2-51 (*Additional Review for Temporary Events*) and must include the following elements:
- (1) Appropriate restrictions for:
- stage construction and orientation;
 - size, location, and orientation of speakers;

- (c) appropriate sound buffering; and
- (d)~~(e)~~ on-site decibel meters.
- (2) If necessary to protect public health and safety, limits on attendance and capacity and more restrictive decibel limits and hours of operation than required under Section 9-2-30 (*Decibel Limits for Outdoor Music*).
- (3) A statement of all code requirements applicable to the permit under Division 1 (*General Provisions*) and Division 3 (*Outdoor Music Permits*) of this chapter.
- (4) Identification and contact information of one or more responsible parties to be present at events requiring the use of sound equipment.

PART 10. Subsection (D) of City Code Section 9-2-54 (*Notice of Application*) is amended to read:

(D) Notice required under this section must:

- (1) describe the general nature of the application;
- (2) identify the applicant and the location of the site or property included in the application;
- (3) [generally] describe:
 - (a) the venue and duration of proposed events;
 - (b) the size of the venue and anticipated attendance; and
 - (c) whether the sale or consumption of alcohol will be allowed at the event;
- (4) provide contact information for the accountable official and the music office;
- (5) state the earliest date that a decision on the application may be made; and
- (6) describe the requirements for becoming an interested party and for appealing a decision on the application.

PART 11. City Code Section 9-2-65 (*Revocation of Live Music Permit*) is amended to read:

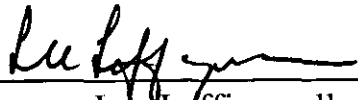
§ 9-2-65 REVOCATION OF LIVE MUSIC PERMIT.

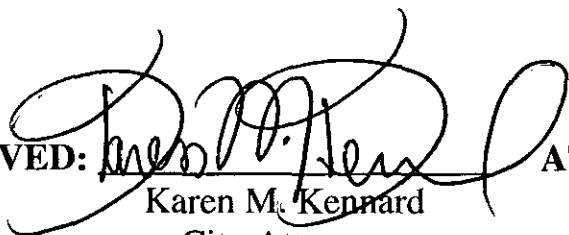
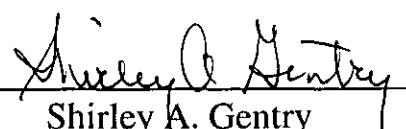
- (A) The accountable official may revoke a permit issued under Article 2, Division 3 (*Outdoor Music Permits*) of this chapter if:
 - (1) the permit was issued in error; or

- (2) the permit holder has not complied with the requirements of this chapter, including conditions imposed on a permit for an outdoor music venue under Section 9-2-39 (*Outdoor Music Venue Permit*) or a multi-day special event permit under Section ~~[9-2-52]~~ 9-2-38 (*Multi-Day Special Event Permit*) in accordance with this section.
- (B) The accountable official may revoke a permit issued under Section 9-2-38 (*Multi-Day Special Event Permit*) if two or more conditions of the temporary event impact plan have been violated and the applicant or operator has failed to correct the violations after 24-hour notice.
- (C) The accountable official may revoke a permit issued under Section 9-2-39 (*Outdoor Music Venue Permit*) in accordance with the requirements of this subsection.
- (1) The accountable official shall provide the applicant written notice, and an opportunity to correct the violations, at least seven (7) days prior to revoking a permit under Subsection (A) of this section. The notice provided under this subsection must specifically describe the violation(s) at issue.
- ~~(2)[(C)]~~ The accountable official shall give notice by certified mail, return receipt requested, of a revocation by the official under this division.
- ~~(3)[(D)]~~ The appellant may appeal the accountable official's decision to the city council by giving written notice to the accountable official not later than the third working day after receiving notice of the decision. The notice of appeal must identify the decision being appealed and explain the general grounds for the appeal.
- ~~(4)[(E)]~~ The city council shall hear the appeal at the next regularly scheduled meeting following receipt of the notice of appeal. An appeal is automatically granted if the council does not hear the appeal before the 21st day following receipt of the notice of appeal unless the applicant agrees to have the hearing scheduled for a later date.
- ~~(5)[(F)]~~ A revocation order remains in effect during the pendency of an appeal under this section.

PART 12. This ordinance takes effect on December 26, 2011.

PASSED AND APPROVED

December 15, 2011 §
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Lee Leffingwell
Mayor

APPROVED:  **ATTEST:** 
Karen M. Kennard Shirley A. Gentry
City Attorney City Clerk